

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA,

Plaintiff,

v.

LEVERT A. BATES,

Defendant.

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CASE NO. 1:17-cr-00060-1

ORDER

JAMES S. GWIN, UNITED STATES DISTRICT COURT JUDGE:

In February and March 2024, Defendant Levert Bates filed two post-conviction motions that he titled as a “Motion for Reduction in Sentence Pursuant to 18 U.S.C. § 3582(c)(2)” and “Motion for Leave to Amend 18 U.S.C. § 3582(c)(2) Pursuant to Rule 40B and § 403 of the First Step Act,” respectively.¹

Based on the motions’ titles, Bates appears to be seeking a sentence reduction due to a retroactive sentencing amendment.² However, the motions do not substantively raise any sentencing amendment arguments. Nor do the motions raise arguments under § 3582’s general compassionate release provision.³ Rather, the motions challenge the validity of Bates’ conviction and sentence.⁴

Conviction- and sentence-validity arguments must be raised under 28 U.S.C. § 2255, not under the compassionate release statute.⁵ So, the Court recharacterizes Bates’ two motions as § 2255 motions.

¹ Docs. 163, 164.

² See 18 U.S.C. § 3582(c)(2).

³ See 18 U.S.C. § 3582(c)(1)(A).

⁴ *Id.*

⁵ *United States v. West*, 70 F.4th 341, 347 (6th Cir. 2023) (collecting cases).

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Recharacterizing Bates' motions as § 2255 motions limits Bates' ability to raise second or successive § 2255 motions in the future.⁶ Therefore, the Court gives Bates the opportunity "to withdraw the motion[s] or to amend [them] so that [they] contains all the § 2255 claims he believes he has."⁷

In sum, the Court recharacterizes Bates' motions as § 2255 motions. If Bates wishes to withdraw or amend those motions, he must do so by **July 1, 2024**. The government shall respond to Bates' motions, including any amendment, by **July 22, 2024**. If Bates wishes to submit a reply, he must do so by **August 5, 2024**.

IT IS SO ORDERED.

Dated: June 10, 2024

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE

⁶ 28 U.S.C. § 2255(h).

⁷ *Castro v. United States*, 540 U.S. 375, 383 (2003).